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* NOT ADMITTED IN D.C.

June 17, 1998

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1776 K Street, NW
Washington, DC 20002

RE: FCC WT Docket 97-199

Dear Gentlemen and Ms. Kerst:

Pursuant to the Judge's order, released June 10, 1998, this will address Judge Steinberg's ruling on your first motion to compel production of documents.

Duty to Supplement. At this time we are not aware that Mr. Easton's previous response was inaccurate or incomplete with respect to your document production request. We note we have advised you from time to time regarding Mr. Easton's attempts to locate any computer tapes or hard drives which may still contain relevant computer files or other data. I understand Mr. Lukas has arranged for certain computer storage media to be provided to you upon our effecting duplication of these items.

Documents in the public domain. A detailed listing of all documents will be provided to you, which will include those documents in the public domain or which we believe you have. Documents in the public domain include those documents filed with the FCC. They also include documents filed in *Easton v. Hamilton*. If after review of that listing you find you lack any non-privileged document which is not in the public domain, please let me know.

Identification of documents withheld on grounds of privilege or work product. We are aware of one document prepared in anticipation of litigation which was not listed on the privilege

log. That document is a video tape of Mike Gavette and possibly Mr. Easton conducting an experiment related to one of Mr. Gavette's declarations submitted to the FCC in connection with the Gutierrez Report. There have also, of course, been numerous documents created by counsel in preparation for depositions and in the course of drafting pleadings, such as notes, markups of other documents, drafts of pleadings, doodles, etc. I am sure you have equally created such documents. It is not my understanding that such documents come within either your document request or the Judge's order. If you think otherwise and you are willing to reciprocate with a listing of your internal work papers, then please let me know.

Ms. Easton's privilege. Please be advised that this firm is in possession of a written demand by Ms. Susan Easton invoking her attorney client privilege with respect to communications to and from her with this firm. Accordingly, such documents previously withheld, will continue to be withheld.

PCS C Block Auction. Judge Steinberg has indicated that all documents relating to the Round 11 PCS C Block auction are to be produced to you. To the best of our knowledge, they have been.

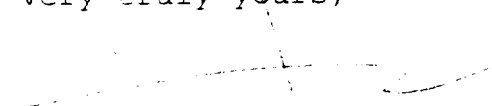
Past bad acts. No documents exist to our knowledge concerning this category to the extent the Judge has required production, except, of course, the deposition transcripts where I asked questions concerning Mr. Easton's reputation for truth and veracity. You, of course, have those documents, or shortly will have them if you ordered transcripts.

Hamilton litigation. We have asked Mr. Easton's counsel in the matter to forward to us those documents produced to Ms. Hamilton and to provide a listing of the pleading file in the case. We have not yet received a response. The list of pleadings and Mr. Easton's production will be provided when received. Alternatively, I am sure counsel would be willing to allow you to inspect the actual pleading files in counsel's office, as well as Mr. Easton's document production. With respect to the issue of Ms. Hamilton's document production, a copy of her response, detailing the documents she stated she produced, is enclosed. I believe you have all these documents which are identified by Ms. Hamilton, and so we do not have to re-produce them. However, if you find you do not, please let me know.

Documents related to communications. Correspondence relevant to communications between Mr. Easton and other's, other than privileged communications, has been provided. In addition, telephone records from Mr. Easton and San Mateo Group were provided for the time periods in question. It is therefore believed that Mr. Easton has complied with the subject requests. If you believe the document production is in any way deficient in this regard, please let me know.

Actual or contemplated communications with Young, Harlick, Wilson & Simpson. Mr. Easton was telephonically interviewed. No written statement was given the firm, and no drafts of a contemplated written statement were made.

Very truly yours,


George L. Lyon, Jr.

GLL/pc

Enclosure

cc: Hon. Arthur I. Steinberg (w/o enclosure)
Katherine Power, Esquire (w/o enclosure)
A. Thomas Carroccio, Esquire (w/o enclosure)

RECEIVED

OCT 7 1991

RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FILED

OCT 8 PM 5:24

CLERK U.S. DISTRICT COURT
NO. DIST. OF CA.

9A99

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

QUENTIN L. BREEN; ANTHONY T.
EASTON; GENERAL CELLULAR
INTERNATIONAL, a Delaware
Corporation; GENERAL
CELLULAR INTERNATIONAL S.A.;
GENERAL CELLULAR
INTERNATIONAL (PERU), LTD.

Plaintiffs,

v.

GENARO DELGADO PARKER, an
individual; RADIOTELE, S.A.;
TELE MOVIL, S.A.; NOVATEL
COMMUNICATIONS, LTD.,

Defendants/Cross-
Claimants.

Civil No. C 90 2745 MHP

[And Civil Nos.

C 90 3289 MHP

C 91 1448 MHP

Consolidated Therein]

ORDER DIRECTING DEFENDANTS
QUENTIN L. BREEN AND
ANTHONY T. EASTON TO
RESCIND STOCK ISSUANCE

The Court has considered the application of NovAtel
Finance, Inc. in NovAtel Finance, Inc. vs. Anthony T. Easton, et
al., Civil Action No. C 91 1448 MHP, consolidated herein, for
contempt against defendant Quentin L. Breen ("Breen"), defendant
Anthony T. Easton ("Easton") and Daniel J. Parks ("Parks"), an
attorney for Breen, Easton and Independent Cellular Telephone,
Inc. ("ICT"), for violation of the temporary restraining order

ORDER DIRECTING DEFENDANTS QUENTIN L. BREEN AND
ANTHONY T. EASTON TO RESCIND STOCK ISSUANCE

PAGE 1

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1 entered orally by this Court on July 1, 1991, and by a written
 2 order entered on July 2, 1991. The Court finds that defendants
 3 Breen and Easton directly, and through their counsel, willfully *misrepresenting them at the time*
 4 misrepresented to the Court the status of the issuance and
 5 transfer of ICT stock at the time of the hearing on the temporary
 6 restraining order. Based thereon,

7 IT IS HEREBY ORDERED that defendants Breen and Easton
 8 are to take all necessary steps in their individual,
 9 representative and corporate capacities to rescind the issuance
 10 and transfer, on or about July 1, 1991, of 200 shares of ICT
 11 stock to Parks within 10 days of service upon them of this
 12 Order.

13 *IT IS FURTHER ORDERED that the*
contempt petition against defendant Parks is
discharged since he was not "present" at the time
the first order of July 1, 1991, was
 14 Dated: October __, 1991 *issued. Parks was not a party*

15 **OCT 8 - 1991**

16 Marilyn Hall Patel to sit
 17 United States District Court Judge

18 5848-B7686

19 *[Signature]*
 20
 21
 22
 23
 24
 25
 26
 27
 28

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BEFORE: THE HONORABLE MARILYN HALL PATEL, JUDGE

NOVATEL FINANCE, INC.,
A DELAWARE CORPORATION,

PLAINTIFF,

VS.

ANTHONY T. EASTON, ET AL.,

DEFENDANTS.

AND RELATED COUNTERCLAIMS
AND CROSS-CLAIMS

C-91-1448 MHP

SAN FRANCISCO, CA

OCTOBER 4, 1991

8/90
FILED
OCT 15 1991
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TRANSCRIPT OF PROCEEDINGS

A P P E A R A N C E S:

FOR NOVATEL FINANCE:

MICHAEL D. EARLY, ESQUIRE
STEEFEL, LEVITT & WEISS
ONE EMBARCADERO CENTER
29TH FLOOR
SAN FRANCISCO, CA 94111

FOR DANIEL J. PARKS:

PAUL M. GORDON, ESQUIRE
LAW OFFICES OF PAUL M. GORDON
1111 BROADWAY
SUITE 1520
OAKLAND, CA 94607-4021

COURT REPORTER:

RAYMOND LINKERMAN
450 GOLDEN GATE AVENUE
BOX 36052
SAN FRANCISCO, CA 94102

2 1 FRIDAY, OCTOBER 4, 1991

2 THE CLERK: CIVIL ACTION 91-1448, NOVATEL FINANCE VS.
3 EASTON, ET AL., FOR FURTHER HEARING ON AN ORDER TO SHOW CAUSE
4 REGARDING CONTEMPT. COUNSEL, YOUR APPEARANCES, PLEASE.

5 MR. EARLY: MICHAEL EARLY OF STEEFEL, LEVITT & WEISS,
6 FOR NOVATEL FINANCE, INCORPORATED.

7 MR. GORDON: AND PAUL GORDON ON BEHALF OF MR. PARKS..

8 THE COURT: YES. NOW, HAVE YOU BEEN ABLE TO WORK OUT
9 ANYTHING IN THE SPIRIT OF CHARITY AND --

10 MR. EARLY: NO, YOUR HONOR. WE -- WE HAVE NOT. AS
11 YOU'LL RECALL, LAST TIME WE HAD AN AGREEMENT WITH RESPECT TO
12 CERTAIN INFORMATION. WE GOT THE FCC INFORMATION LAST FRIDAY; WE
13 DID NOT GET ANY FINANCIAL INFORMATION WHATSOEVER. WE GOT SOME
14 INFORMATION YESTERDAY WITH RESPECT TO METHODS BY WHICH ICT HOPED
15 IN THE FUTURE TO GAIN CAPITAL, BUT IT HAS NOT -- HAS NOT BROUGHT
16 US ANY CLOSER TO A RESOLUTION.

17 THE COURT: WELL, WE ESSENTIALLY HAVE TWO -- TWO
18 MATTERS TO DEAL WITH. ONE IS THE -- SOME ATTEMPTED RESOLUTION
19 THAT YOU'VE BEEN WORKING ON, AND THE OTHER IS THE -- THE
20 CONTEMPT WITH RESPECT TO THE TRANSFER OF SHARES, OR SEVERAL
21 SHARES OF STOCK.

22 ON THE FIRST, WHAT -- WHAT ARE YOU ASKING FOR AT THIS
23 STAGE, THEN?

24 MR. EARLY: WHAT --

25 THE COURT: ON THE -- ON THE FIRST -- ON THE ATTEMPTED

1 RESOLUTION. APART FROM THE -- APART FROM THE CONTEMPT, IS THERE
2 SOMETHING YOU'RE ASKING THE COURT TO DO NOW?

3 MR. EARLY: ON THE ATTEMPTED RESOLUTION, I DON'T THINK
4 THAT THERE'S ANYTHING THAT THE COURT CAN DO. I THINK WE'VE --

5 THE COURT: WE'LL JUST HAVE TO GO AHEAD AND PROCEED --

6 MR. EARLY: I'M AFRAID SO. WE HAVE -- WE HAVE BEAT OUR
7 HEADS AGAINST THAT -- AGAINST THAT WALL FOR QUITE SOME TIME,
8 AND -- AND I THINK BOTH SIDES HAVE MADE SOME EFFORTS IN GOOD
9 FAITH TO TRY AND DO THAT. I DON'T THINK THAT WE'RE IN A
10 POSITION THAT -- THAT COMPRISE IS POSSIBLE. AND CERTAINLY NOT
11 WITH THE INFORMATION WE'VE GOT SO FAR.

12 THE COURT: WHY IS IT DIFFICULT TO GET MORE INFORMATION
13 REGARDING FINANCIAL CONDITION?

14 MR. GORDON: HAS YOUR HONOR SEEN THE SUPPLEMENTAL
15 DECLARATION THAT --

16 THE COURT: YES, UH-HUM.

17 MR. GORDON: -- I PROVIDED THIS MORNING?

18 THE COURT: UM-HUM.

19 MR. GORDON: BECAUSE I DO NEED TO SET THE RECORD
20 STRAIGHT ON THIS -- THIS ASSERTION THAT WE HAVEN'T BEEN
21 PROVIDING FINANCIAL INFORMATION TO NOVATEL. WE HAVE. AND THAT
22 WAS THE PURPOSE OF MR. PARKS' DECLARATION TO THE COURT. WE'VE
23 BEEN VERY FORTHCOMING WITH FINANCIAL INFORMATION TO MR. EARLY
24 AND HIS CLIENT FOR SOME LONG PERIOD OF TIME.

25 BUT I THINK THE THING WE ALL OUGHT TO FOCUS ON IS THAT

1 THE LETTER THAT'S ATTACHED AS AN EXHIBIT TO MR. PARKS'
2 DECLARATION, AND THAT HAS BEEN PROVIDED TO MR. EARLY, MENTIONS
3 THAT THERE IS AN INVESTOR NOW WHO HAS OFFERED TO PUT IN \$3
4 MILLION FOR 50 PERCENT OF ICT. AND THAT WILL GIVE US THE
5 FINANCING NECESSARY TO CLOSE THE IDAHO-5 MULTIMARKET
6 TRANSACTION. THAT, OF COURSE, IS THE THING THAT EVERYONE'S BEEN
7 CONCERNED ABOUT; THAT'S WHY WE KEEP COMING BACK. THAT'S THE
8 CONCERN OF MR. EARLY'S CLIENT; HE'S SAID OVER AND OVER AGAIN,
9 "WE DON'T KNOW WHERE YOU'RE GOING TO GET THE MONEY TO CLOSE THIS
10 TRANSACTION." WE NOW HAVE AN INVESTOR WHO HAS INDICATED THAT HE
11 IS -- IS WILLING TO PUT IN \$3 MILLION FOR HALF THE COMPANY. THE
12 COMPANY BELIEVES THAT'S TOO LITTLE, AND IT IS TOO LITTLE. AND
13 SO EITHER THE PRICE NEEDS TO BE INCREASED, OR PERHAPS THE SHARE
14 INTEREST NEEDS TO BE REDUCED. BUT UNLIKE TWO WEEKS AGO, AND
15 UNLIKE TWO MONTHS AGO, OR THREE MONTHS AGO, PEOPLE ARE ALL NOW
16 MUCH MORE CONFIDENT THAT WHEN THE IDAHO-5 TRANSACTION NEEDS TO
17 CLOSE COME JANUARY NEXT YEAR, THE MONEY'S GOING TO BE THERE.
18 AND THEN THESE FOLKS ARE GOING TO BE ABLE -- THEY'RE GOING TO
19 HAVE AN INTEREST THAT'S WORTH SOMETHING.

20 THE COURT: YOU'RE SHAKING YOUR HEAD.

21 MR. EARLY: YOUR HONOR, THIS IS -- WE DON'T HAVE AN
22 OFFER. WHAT WE HAVE IS, WE -- WE HAVE A STATEMENT THAT, GEE,
23 SOMEONE IS INTERESTED IN THIS STOCK. THERE IS NO OFFER. IN
24 FACT, UNDER THE PRELIMINARY INJUNCTION WHICH IS CURRENTLY IN
25 PLACE, IF ICT WERE ANYWHERE CLOSE TO ENTERING INTO A

1 TRANSACTION, THEY WOULD HAVE TO PROVIDE NOVATEL WITH THE DETAILS
2 OF THE TRANSACTION, INFORMATION REASONABLY DEEMED NECESSARY TO
3 EVALUATE THE PROPOSED TRANSACTION, OR STATEMENT OF WHERE THE
4 PROCEEDS, AND HOW -- WILL COME FROM, AND HOW THEY WILL BE USED.
5 WE'RE NOWHERE NEAR THAT STAGE.

6 THE COURT: WELL, WHAT'S THE PROBLEM WITH IDENTIFYING
7 THAT INVESTOR? ANY REASON WHY THAT CAN'T BE DONE?

8 MR. GORDON: WELL, I THINK THERE HAVE BEEN SOME
9 PROBLEMS IN THE -- IN THE PAST, BUT CERTAINLY WHEN WE GET TO THE
10 STAGE WHERE WE'VE GOT A PRELIMINARY DEAL WORKED OUT WITH THIS
11 INVESTOR, OF COURSE WE'RE GOING TO COME TO THEM. AND MR.
12 EARLY'S ABSOLUTELY CORRECT, I THINK WE WOULD HAVE TO MODIFY THE
13 PRELIMINARY INJUNCTION SO THAT YOUR HONOR WOULD PERMIT US TO GO
14 FORWARD WITH THIS TRANSACTION. BUT I WOULD PREFER TO NOT
15 IDENTIFY THAT INVESTOR AT THIS STAGE, BECAUSE --

16 THE COURT: WELL, WHEN CAN YOU PUT FORTH THE NAME OF --
17 THE IDENTITY OF THE INVESTOR, THE PROPOSAL OF THE INVESTOR, THE
18 TERMS OF THE TRANSACTION, ALL THE DETAILS THAT ARE GOING TO
19 SATISFY THESE CONCERNS?

20 MR. GORDON: WELL, WE HAVE -- WE CERTAINLY HAVE TOLD
21 THE COURT AND MR. EARLY WHAT THE OFFER IS. AND IT IS AN OFFER.
22 MR. EARLY SAYS IT'S NOT AN OFFER, BUT IT IS AN OFFER: \$3
23 MILLION FOR HALF THE COMPANY. THAT IS -- IS NOT ENOUGH MONEY
24 FROM ITC'S STANDPOINT, THAT VALUES THE COMPANY TOO LOW, AND SO I
25 THINK THERE'S SOME NEGOTIATION THAT NEEDS TO TAKE PLACE. I

1 THINK IT IS TAKING PLACE RIGHT NOW. AND IF THE COURT --

2 THE COURT: BUT A PROPOSAL THAT'S ESSENTIALLY IN THE
3 FORM WHERE WE CAN DETERMINE WHETHER IT CAN BE -- IT CAN RESOLVE
4 THIS LOGJAM, AND ALSO WHAT -- WHAT EFFECT THAT WILL HAVE IN
5 TERMS OF ANY MODIFICATION OF THE ORDER.

6 MR. GORDON: WELL, LET'S FIND OUT FROM MR. PARKS, WHO
7 KNOWS MUCH BETTER THAN I DO THE ANSWER TO YOUR HONOR'S QUESTION,
8 WHICH IS, WHAT IS A REASONABLE TIME FRAME WITHIN WHICH WE MIGHT
9 HAVE THE OUTLINE OF THE DEAL THAT WE COULD PRESENT TO THE COURT.
10 DO YOU HAVE ANY IDEA, MR. PARKS?

11 MR. PARKS: I WOULD EXPECT WITHIN THE NEXT TWO WEEKS.
12 THIS HAS VERY RECENTLY COME UP, THERE ARE A LOT OF PEOPLE
13 INVOLVED, AND THERE'S -- THAT WAS A -- AN OFFER THAT IS NOT
14 ACCEPTABLE, AS FAR AS I KNOW, TO ANYBODY IN THE CORPORATION, BUT
15 THERE'S SOMETHING THAT'S PROBABLY CLOSE TO THAT THAT WILL BE.

16 MR. EARLY: YOUR HONOR --

17 THE COURT: YES.

18 MR. EARLY: -- FIRST OF ALL, WE HAVE -- WHAT WE HAVE
19 HERE IS THE HEARSAY STATEMENT FROM MR. ELLISON, WHO CONVENIENTLY
20 IS NOT HERE, AND APPARENTLY MR. PARKS DOES NOT HAVE PERSONAL
21 KNOWLEDGE OF THIS TRANSACTION, ABOUT AN OFFER THAT SUPPOSEDLY
22 TOOK PLACE LAST WEEK, WHICH THEY DIDN'T INFORM ME OF UNTIL
23 YESTERDAY, THROUGH THIS LETTER, WHICH PURPORTS TO INVOLVE THE
24 SALE OF 50 PERCENT -- OF A 50 PERCENT INTEREST IN ICT. ICT IS
25 NOT IN A POSITION TO TRANSFER 50 PERCENT OF ITS STOCK. THEY

1 WOULD HAVE TO HAVE AN ISSUANCE OF ADDITIONAL STOCK, AND THAT CAN
2 ONLY BE DONE TO THE -- TO -- IN A WAY THAT IS -- CREATES A -- A
3 DIMINUTION IN THE VALUE OF NOVATEL FINANCE'S PLEDGED STOCK --

4 THE COURT: IS THIS GOING TO BE A TRANSFER OF BREEN AND
5 EASTON'S, OR PITCARIN --

6 MR. GORDON: NO. IT WOULD HAVE TO BE AN ISSUANCE OF
7 NEW STOCK, AND OF COURSE, IT WOULD DILUTE ALL OF THE
8 SHAREHOLDERS. THAT'S HOW YOU RAISE MONEY IN A COMPANY, OR ONE
9 OF THE WAYS TO RAISE MONEY IN A COMPANY, YOU ISSUE NEW STOCK TO
10 SOMEBODY THAT PUTS MONEY INTO THE COMPANY, AND IT DILUTES
11 EVERYONE ELSE, BUT THEY GET SOMETHING IN RETURN.

12 THE COURT: WELL, NOBODY IS GOING TO PUT ANY MONEY IN
13 UNLESS THEY GET -- UNLESS THEY GET A SHARE --

14 MR. EARLY: I --

15 THE COURT: -- OF THE COMPANY. I MEAN --

16 MR. EARLY: I CERTAINLY DON'T -- I CERTAINLY DON'T
17 DISPUTE THAT, YOUR HONOR, BUT WHAT -- THE TRANSACTION THAT
18 THEY'RE TALKING ABOUT, THEY CANNOT GIVE 50 PERCENT OF ANY OF ICT
19 STOCK TO THIS SUPPOSED OFFEROR. THE -- THE OFFER, IF WE'RE TO
20 BELIEVE THIS, IS -- IF YOU HAD -- IF YOU ARE ABLE TO ISSUE
21 ADDITIONAL STOCK THAT WOULD CONSTITUTE A 50 PERCENT INTEREST, I
22 WOULD BUY IT AT THREE MILLION. BUT, OF COURSE, YOU DON'T HAVE
23 THAT. AND IN FACT, YOU'RE UNDER A COURT ORDER THAT YOU CAN'T
24 GIVE ME THAT.

25 I -- I REALLY QUESTION WHETHER WE HAVE ANYTHING

1 APPROACHING AN OFFER IN THE CONTRACT SENSE, OF SOMETHING THAT
2 COULD BE ACCEPTED BY ICT, IF IT WERE ACCEPTABLE TO ICT.

3 THE COURT: WELL, AREN'T YOU PUTTING THEM IN A DAMNED-
4 IF-YOU-DO, DAMNED-IF-YOU-DON'T SITUATION?

5 MR. EARLY: YOUR HONOR, THAT'S THE WHOLE IDEA OF THE --
6 OF THE -- OF THE -- OF THE PRELIMINARY INJUNCTION, THEY ARE
7 SUPPOSED TO GIVE US THAT INFORMATION SO THAT WE CAN EVALUATE
8 THAT TRANSACTION. AND THEY -- IF THEY HAD THIS OFFER LAST
9 WEEK --

10 THE COURT: WELL, WHAT YOU'RE SAYING IS, EVEN IF YOU
11 GIVE US -- HOLD ON -- EVEN IF YOU GIVE US THAT INFORMATION, IT'S
12 NOT GOING TO BE A BIT OF GOOD ANYWAY, BECAUSE WE'RE GOING TO
13 REJECT IT, OR HAVE -- OPPOSE IT, BECAUSE IT WILL REDUCE OUR --
14 OR DIMINISH OUR INTEREST. AND OF COURSE IT WILL. IF YOU'RE
15 GOING TO HAVE SOMEBODY TO COME IN, YOU KNOW, AND FINANCE IT,
16 THEY WANT SOMETHING IN RETURN, WHICH IS USUALLY SHARES.

17 MR. EARLY: WELL, YOUR HONOR, IF -- IF WE WEREN'T
18 TALKING ABOUT -- I MEAN, THAT WAS THE WHOLE REASON FOR THE TRO
19 AND THE PRELIMINARY INJUNCTION TO BEGIN WITH, SO THAT NOVATEL
20 FINANCE'S INTEREST IN THIS COMPANY WOULD NOT BE DILUTED. AND --
21 BUT IN ANY EVENT, IF --

22 THE COURT: HOLD ON JUST A MOMENT. WHAT YOU'RE
23 INTERESTED IN IS RECOVERY.

24 MR. EARLY: YES.

25 THE COURT: AND IF YOU CAN -- IF THIS COMPANY IS WORTH

1 NOTHING, OR VERY LITTLE, THEN WHATEVER INTEREST -- PERCENTAGE
2 INTEREST YOU MAY HAVE WILL BE MAYBE A PERCENTAGE OF ZERO, OR
3 CLOSE TO ZERO, WHICH IS GOING TO GET YOU FAR LESS THAN MAYBE
4 HAVING A SMALLER PERCENTAGE OF SOMETHING THAT'S WORTH MORE.

5 MR. EARLY: YOUR HONOR, I -- I COULDN'T AGREE WITH YOU
6 MORE, BUT --

7 THE COURT: YOU'D HAVE TO, RIGHT? WOULDN'T MAKE SENSE
8 OTHERWISE.

9 MR. EARLY: I COULD NOT AGREE WITH YOU MORE. BUT
10 SUPPOSEDLY THIS OFFER CAME IN LAST WEEK. TWO WEEKS AGO, WE WERE
11 HERE, AND MR. PARKS SAID, "I WILL GIVE YOU FINANCIAL INFORMATION
12 ON ICT, I WILL GIVE YOU INFORMATION ON HOW WE INTEND TO RAISE
13 MONEY TO CLOSE THIS DEAL."

14 THE COURT: OKAY. WELL, LET ME ASK YOU --

15 MR. EARLY: SUPPOSEDLY LAST WEEK WE HAD THIS OFFER,
16 AND --

17 THE COURT: THESE THINGS MOVE SLOWLY, RIGHT? YOU KNOW
18 THAT. I MEAN, NO ONE JUST GOES OUT AND SAYS, "HERE'S \$3
19 MILLION, I WANT TO INVEST IT RIGHT NOW" --

20 MR. EARLY: I UNDERSTAND THAT, YOUR HONOR, BUT IF THEY
21 HAD AN OFFER LAST WEEK, IT SEEMS TO ME THAT SINCE THEY WERE
22 SUPPOSED TO GIVE ME INFORMATION LAST WEEK, ON FRIDAY, ABOUT
23 ICT'S EFFORTS TO FINANCE --

24 THE COURT: YOU'VE BEEN HIDING THE BALL?

25 MR. EARLY: -- THEN THE OFFER FOR \$3 MILLION WOULD BE

1 ONE OF THOSE THINGS.

2 MR. GORDON: I'M SORRY, YOUR HONOR?

3 THE COURT: YOU'VE BEEN HIDING THE BALL?

4 MR. GORDON: NO, YOUR HONOR. ACTUALLY, PERHAPS I
5 MISUNDERSTOOD, BUT I -- I THOUGHT THE LAST TIME WE WERE HERE THE
6 FRIDAY DEADLINE THAT COUNSEL REFERS TO WAS WITH RESPECT ONLY TO
7 MR. SULLIVAN'S LETTER, IT WAS NOT WITH RESPECT TO PROVIDING
8 FINANCIAL INFORMATION. SECOND, AND MORE IMPORTANTLY, WE HAD
9 BEEN PROVIDING THIS FINANCIAL INFORMATION TO THEM FOR MONTHS.

10 IN ANY EVENT, THIS OFFER CAME IN LAST WEEK. WE'VE NOW
11 TOLD THEM ABOUT IT. LET'S PURSUE IT. THIS COULD -- IT IS -- TO
12 ME, IT SEEMS INSANE FOR MR. EARLY TO SAY, "WELL, WE DON'T CARE
13 WHAT YOU FIND OUT, WE DON'T CARE WHERE THIS GOES, WE JUST WANT
14 TO PROCEED." IT SOUNDS TO ME LIKE IN A COUPLE OF WEEKS WE'LL
15 KNOW WHETHER THIS IS FOR REAL OR NOT. I BELIEVE IT IS FOR REAL.
16 WE WILL THEN HAVE THE FINANCING TO CLOSE THIS TRANSACTION. MR.
17 EARLY'S CLIENT WILL HAVE PERHAPS 25 PERCENT OF SOMETHING THAT'S
18 WORTH A LOT, INSTEAD OF 49 PERCENT OF SOMETHING THAT ISN'T WORTH
19 VERY MUCH AT ALL. I THINK WE CAN AFFORD TO PURSUE THAT. I
20 THINK WE SHOULD PURSUE IT.

21 MR. EARLY: YOUR HONOR --

22 THE COURT: WHAT ARE THE ALTERNATIVES?

23 MR. EARLY: I'M SORRY?

24 THE COURT: WHAT ARE THE ALTERNATIVES?

25 MR. EARLY: THE ALTERNATIVES TO...

1 THE COURT: WAITING FOR A COUPLE OF WEEKS.

2 MR. EARLY: THE ALTERNATIVES --

3 THE COURT: AND SEEING IF THEY CAN PUT IT TOGETHER, AND
4 IF IT'S SOMETHING THAT -- THAT CAN -- THAT YOU CAN LIVE WITH.

5 MR. EARLY: WELL, YOUR HONOR, THAT ISSUE REALLY HAS
6 NOTHING TO DO WITH THE FACT THAT MR. PARKS STOLE THESE 200
7 SHARES, SPECIFICALLY TO PUT NOVATEL FINANCE IN THIS POSITION. .
8 THAT WAS THE WHOLE INTENT BEHIND THE STEAL. THAT'S WHY IT'S 200
9 SHARES, BECAUSE THAT WAS JUST ENOUGH TO PUT NOVATEL FINANCE IN
10 THIS POSITION OF NOT HAVING MAJORITY INTEREST.

11 THE COURT: WELL, BUT EVEN IF WE DO SOMETHING ABOUT
12 THAT SITUATION, DON'T WE STILL HAVE THE GREATER PROBLEM?

13 MR. EARLY: YES, YOUR HONOR, AND I --

14 THE COURT: OKAY.

15 MR. EARLY: -- AND THE STIPULATED --

16 THE COURT: THAT'S WHY I WANTED TO DEAL WITH THE
17 GREATER PROBLEM FIRST, AND THEN WE'LL DEAL WITH THIS.

18 MR. EARLY: YES. AND THE STIPULATED PRELIMINARY
19 INJUNCTION PROVIDES FOR THAT TYPE OF SITUATION. WHEN THEY ARE
20 AT THE POINT WHEN THEY HAVE SOMETHING THAT IS SUFFICIENTLY SOLID
21 TO DISCLOSE TO US, THEY ARE TO COME TO US AND DISCLOSE THE
22 INFORMATION THAT IS NECESSARY FOR US TO UNDERSTAND AND EVALUATE
23 THE TRANSACTION. AND IF THE PARTIES AT THAT POINT --

24 THE COURT: YOU MEAN, IF YOU GET -- OKAY. THEN I --
25 MAYBE I MISSED SOMETHING -- YOU MEAN TO SAY IF WE GET MR. PARKS'

1 SITUATION WITH THAT STOCK RESOLVED TODAY, THAT YOU DON'T NEED TO
2 COME BACK HERE UNTIL THERE IS SOMETHING REALLY SOLID?

3 MR. EARLY: THAT'S RIGHT, YOUR HONOR. UNDER -- UNDER
4 THE TERMS OF THE PRELIMINARY INJUNCTION --

5 MR. GORDON: YOUR HONOR, LET ME JUST INTERJECT HERE.

6 THE COURT: YES.

7 MR. GORDON: I THINK WE OUGHT TO WAIT, BUT I THINK
8 WHAT -- WHAT YOUR HONOR'S PERCEIVING IS SOMETHING THAT I
9 PERCEIVED FOR A LONG TIME, WHICH IS THAT THERE IS NO SATISFYING
10 NOVATEL ON THIS ISSUE. I HAVE BEEN LISTENING NOW FOR WEEKS,
11 AND --

12 THE COURT: ON WHICH ISSUE?

13 MR. GORDON: ON -- ON THE ISSUE OF --

14 THE COURT: ON THE DEAL?

15 MR. GORDON: -- COMING UP WITH A DEAL THAT'S
16 SATISFACTORY TO THEM. WE HAVE TRIED EVERYTHING. WE CAN'T
17 SATISFY THEM. I DON'T THINK WE'RE GOING TO BE ABLE TO SATISFY
18 THEM IN A COUPLE OF WEEKS EITHER. AND WE HAVE BEEN LISTENING
19 NOW FOR WEEKS AND MONTHS OF THREATS, CONSTANT THREATS ABOUT
20 WHAT'S GOING TO HAPPEN TO MR. PARKS IN THIS CONTEMPT PROCEEDING.
21 AND I THINK, YOUR HONOR, WHEN YOU LOOK AT THE FACTS, YOU'RE
22 GOING TO SEE THAT MR. PARKS IS ENTITLED TO KEEP THESE SHARES, HE
23 COULD KEEP THESE SHARES, AND FRANKLY, I AM TIRED OF MR. EARLY
24 CONSTANTLY TRYING TO HOLD THIS CONTEMPT PROCEEDING OVER OUR
25 HEAD, BECAUSE THIS CONTEMPT PROCEEDING SHOULD BE DISCHARGED.

1 AND I AM PERFECTLY --

2 THE COURT: WELL, LET ME -- LET ME ASK YOU --

3 MR. GORDON: -- HAPPY TO GO FORWARD WITH IT RIGHT NOW.

4 THE COURT: LET ME ASK YOU THIS: IF IN FACT SOMETHING
5 IS DONE TO RESOLVE THAT, WHERE ARE THE PARTIES GOING TO BE WITH
6 RESPECT TO GOING AHEAD AND OBTAINING THE FINANCING WHICH YOU'VE
7 BEEN TALKING ABOUT, OR THE INVESTMENT WHICH YOU'VE BEEN TALKING
8 ABOUT, AND THEN NOVATEL'S REVIEW OF IT, AND...

9 MR. GORDON: I SUPPOSE IT MAY DEPEND ON WHAT YOUR HONOR
10 RULES. I THINK THE ISSUES ARE UNRELATED. I DON'T THINK IT
11 SHOULD AFFECT YOUR RULING ONE WAY OR ANOTHER.

12 THE COURT: -- TO SOME EXTENT. HOW MUCH RELATED ARE
13 THEY, REALLY?

14 MR. EARLY: WELL, YOUR HONOR, WITH THE -- WITH THE
15 PRELIMINARY INJUNCTION IN PLACE RIGHT NOW, IT PROVIDES FOR A
16 PROCEDURE BY WHICH WE CAN DISCUSS, AND IF WE CAN'T REACH
17 AGREEMENT, RESOLVE AN ISSUE SUCH AS THIS ABOUT A WAY TO RAISE
18 CAPITAL FOR ICC, AND THAT IS PROVIDED FOR ALREADY. THAT'S
19 SEPARATE FROM THE -- THE APPLICATION THAT WE BROUGHT AGAINST MR.
20 PARKS. IF YOU --

21 THE COURT: WELL, THEN, MAYBE WE SHOULD JUST DEAL WITH
22 MR. PARKS.

23 MR. EARLY: I THINK WE SHOULD DEAL WITH --

24 MR. GORDON: I THINK WE SHOULD, YOUR HONOR. I THINK --

25 MR. EARLY: WE HAVE NOT --

1 MR. GORDON: LET'S GET IT OUT OF THE WAY SO IT WON'T BE
2 WHAT THEY PERCEIVE AS SOME KIND OF BARGAINING CHIP.

3 THE COURT: AND YOU CAN GO OUT THERE AND DO WHATEVER
4 YOU WANT TO WITH RESPECT TO GETTING FINANCING, OR -- AND WITH
5 RESPECT TO WHETHER YOU'VE GOT 50 PERCENT OR WHATEVER OF -- OF
6 ZERO, OR 35 PERCENT OF MILLIONS, OR NONE OF THE ABOVE. OKAY?

7 APPARENTLY, AS I UNDERSTAND THE SEQUENCE OF EVENTS, THE
8 TRANSFER OCCURRED JUST SHORTLY BEFORE THE TELEPHONE CONFERENCE,
9 RIGHT?

10 MR. GORDON: THAT'S CORRECT, YOUR HONOR.

11 THE COURT: AND IF THAT IS NOT -- WHILE IT MAY NOT
12 TECHNICALLY BE A VIOLATION OF THE COURT'S ORDER, THAT CERTAINLY
13 HAS TO BE IN DEROGATION OF WHAT THE WHOLE PURPOSE OF THE HEARING
14 WAS FOR IN THE PHONE CONFERENCE. AND CERTAINLY THAT WAS NOT
15 SOMETHING THAT WAS FULLY DISCLOSED IN THE PHONE CONFERENCE,
16 CORRECT?

17 MR. EARLY: YOUR HONOR IS CORRECT.

18 MR. GORDON: WELL, IT WAS DISCLOSED THAT THE -- THAT
19 THE SHARES HAD BEEN GIVEN TO MR. PARKS. BUT --

20 MR. EARLY: YOUR HONOR --

21 MR. GORDON: BUT WHAT WE REALLY NEED TO DISTINGUISH
22 BETWEEN HERE, I WANT TO MAKE THAT YOUR WE'RE CLEAR ON THIS, IS
23 BETWEEN WHAT MR. BREEN AND MR. EASTON'S RESPONSIBILITIES TO THE
24 COURT WERE IN THAT CIRCUMSTANCE. AND MR. PARKS. BECAUSE WHAT
25 WE'RE HERE ON TODAY IS AN APPLICATION FOR AN ORDER TO SHOW CAUSE

1 THAT SAYS THAT MR. PARKS ACTED IN CONTEMPT OF THIS COURT'S
2 ORDER.

3 THE COURT: WELL, WASN'T MR. PARKS A PARTICIPANT IN
4 THAT PHONE CONFERENCE?

5 MR. GORDON: NO, YOUR HONOR.

6 MR. EARLY: HE WAS NOT.

7 THE COURT: HE WAS NOT?

8 MR. GORDON: ABSOLUTELY NOT.

9 MR. EARLY: HE WAS NOT ON THE TELEPHONE IN THAT
10 CONFERENCE. HE WAS A PARTICIPANT BY PHONE IN THE BOARD OF
11 DIRECTORS' MEETING WHICH OCCURRED IMMEDIATELY BEFORE THAT, AND
12 HE WAS A PARTICIPANT IN AN EARLIER CONVERSATION. HOWEVER, HE
13 WAS ACTING IN THAT EARLIER CONVERSATION, ACCORDING TO HIS OWN
14 TESTIMONY, WHICH IS IN OUR PAPERS, AS THE ATTORNEY FOR MR. BREEN
15 AND MR. EASTON, AND HE HAS ACTED AS THEIR ATTORNEY IN THE PAST,
16 AND I BELIEVE CONTINUES TO, I'M NOT SURE.

17 BUT IN ANY EVENT, UNDER RULE 65, THAT ORDER IS
18 APPLICABLE TO HIM AS AN ATTORNEY, REGARDLESS -- OR/AND AS AN
19 AGENT, AND ANY OTHER INSTRUMENTALITY -- BUT -- BUT REGARDLESS OF
20 THE SCOPE OF THE ORDER, JUST UNDER THE RULE, THAT -- THAT ORDER
21 IS APPLICABLE TO MR. PARKS. AND MR. PARKS WAS A PARTY TO THIS
22 ENTIRE EFFORT TO INSURE THAT -- OR TO ATTEMPT TO INSURE THAT
23 NOVATEL FINANCE'S INTEREST WOULD BE DILUTED PRIOR TO THAT
24 HEARING, OR DURING THAT HEARING.

25 THERE IS A MAJOR MISREPRESENTATION THAT WAS MADE AT THE

1 HEARING ITSELF, WHICH IS NOT REFERRED TO IN THE PAPERS. NOT
2 JUST THE 200 SHARES --

3 THE COURT: WITHOUT REGARD TO WHETHER MR. BREEN OR
4 MR. -- STRIKE THAT -- MR. PARKS WAS IN DIRECT VIOLATION OF THAT
5 ORDER, DOES THE COURT NOT HAVE THE POWER TO ACT TO ESSENTIALLY
6 PLACE THE PARTIES IN THE STATUS QUO THAT THEY SHOULD HAVE BEEN
7 IN AT THE TIME THAT THAT HEARING BY PHONE WAS CONDUCTED?
8 NAMELY -- THE WHOLE PURPOSE OF THE HEARING, AS GIVEN -- AS BY --
9 PER THE NOTICE, AND -- AND THE REASON FOR THE HEARING, WAS TO
10 RESOLVE ISSUES THAT WENT TO THE STATUS OF THE STOCK, DIMINUTION
11 OF NOVATEL'S INTEREST, AND THEREFORE, MR. -- MR. PARKS, ALONG
12 WITH BREEN AND EASTON, WERE FULLY ON NOTICE THAT ANY ACTION BY
13 THEM BEFORE THAT PHONE CONFERENCE, AND PRECIPITOUSLY CLOSE TO
14 THE PHONE CONFERENCE, WOULD -- WOULD UPSET THE STATUS QUO AND
15 HAVE AN EFFECT ON WHAT THE COURT MIGHT OR MIGHT NOT BE ABLE TO
16 DO AT THAT TIME?

17 MR. GORDON: NO, YOUR HONOR. MY UNDERSTANDING OF THE
18 LAW IS THAT -- THAT A TEMPORARY RESTRAINING ORDER CAN ONLY
19 RESTRAIN, PERIOD, AND I HAVE CITED TO YOUR HONOR CASES ON THAT
20 POINT. AND I -- BUT I THINK WE WENT TO STEP BACK HERE AND MAKE
21 SURE WE UNDERSTAND WHAT THE FACTS ARE, TOO, BECAUSE A LOT OF
22 ASSERTIONS ARE BEING MADE HERE BY COUNSEL, YOUR HONOR, AND YOU
23 WILL NOT FIND ANY FACTUAL BASIS FOR MANY OF THE ASSERTIONS THAT
24 MR. EARLY IS MAKING. AND I -- I THINK BEFORE WE START JUMPING
25 TO CONCLUSIONS ABOUT WHAT MR. PARKS WAS ON NOTICE OF, AND WHAT

6
1 HE KNEW ABOUT, AND WHETHER HE SUPPOSEDLY PARTICIPATED IN SOME
2 SCHEME TO REDUCE BREEN'S AND EASTON'S SHARE HOLDINGS BELOW 50
3 PERCENT, LET'S SEE WHERE THE FACTS, YOUR HONOR, BECAUSE --
4 BECAUSE THE OTHER AUTHORITY THAT I'VE CITED TO YOUR HONOR ON
5 THIS POINT IS THAT THEY HAVE THE BURDEN OF PROVING BY CLEAR AND
6 CONVINCING EVIDENCE, CLEAR AND CONVINCING EVIDENCE, THAT THERE
7 HAS BEEN A VIOLATION OF THE COURT'S ORDER.

8 AND I'VE ALSO --

9 THE COURT: I'M NOT MERELY TALKING ABOUT CONTEMPT NOW,
10 BECAUSE THE CONTEMPT MAY NOT OPERATE RETROACTIVELY. I'M
11 REFERRING TO CONDUCT BY A PARTY THAT MAY HAVE -- IN ANTICIPATION
12 OF THE MOTION FOR TEMPORARY RESTRAINING ORDER, HAVE PURPOSEFULLY
13 BEEN ENGAGED IN IN ORDER TO AFFECT THE ABILITY OF THE COURT TO
14 ENTER A TEMPORARY RESTRAINING ORDER, OR TO AFFECT THE STATUS
15 QUO.

16 MR. GORDON: IF YOUR HONOR IS TALKING ABOUT SOME ORDER
17 SUBSEQUENT TO A TEMPORARY RESTRAINING ORDER, THAT COULD --

18 THE COURT: NO. I'M TALKING ABOUT CONDUCT BY THE
19 PARTIES IMMEDIATELY BEFORE, OR SHORTLY BEFORE A -- THEY WERE
20 AWARE THAT THIS ISSUE -- THE ISSUE OF -- OF NOVATEL'S DIMINUTION
21 OF INTEREST, OR DIMINUTION OF ITS -- OF ITS RIGHTS MIGHT BE
22 AFFECTED, ACTION THAT WOULD BE TAKEN TO PUT THAT -- AND TO HAVE
23 ADVERSE IMPACT UPON WHAT THE COURT COULD DO. IN OTHER WORDS,
24 ACTION IN DEROGATION OF NOVATEL'S INTEREST BEFORE THE COURT
25 COULD EVEN HEAR IT. BUT, YET, ON NOTICE THAT THAT HEARING WAS